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DIGEST OF WATER POLLUTION CONTROL LEGISLATION... PUERTO RICO

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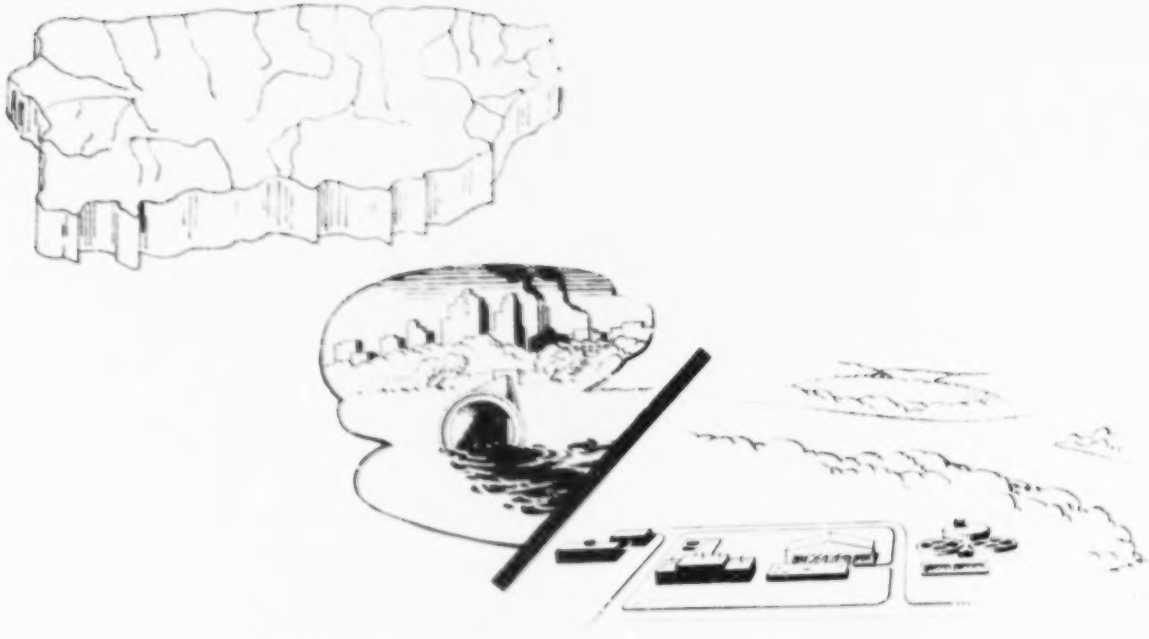

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U. S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

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DIGEST OF PUERTO RICO WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The Department of Health has the primary responsibility of controlling water pollution in Puerto Rico. It has been designated by law as the Water Pollution Control Agency for all purposes of the Federal Act, and the Secretary of Health is authorized to take all necessary action to secure the benefits of the Federal Act (Title 24, sec. 592)[1/]. The Secretary is authorized to collaborate with the Surgeon General and other Federal agencies in all activities relating to the pollution of waters, including the development of programs for the abatement of water pollution; to apply for and accept such funds as may be made available for Puerto Rico by any agencies of the Federal Government; and to approve the projects for which applications for grants or loans are made by any agency, division or subdivision of the Government of Puerto Rico under the Federal Act (Title 24, sec. 593).

II. ADMINISTRATIVE ORGANIZATION

Department of Health - Water Pollution Control Advisory Board

1. Composition and organization

The Secretary of Health is the head of the Department of Health (Const. Art. IV, secs. 5, 6; title 3, sec. 171).

The Advisory Board, with which the Secretary advises and consults in connection with the administration of the water pollution law, consists of the Secretary of Health, who is ex officio Chairman, the Executive Director of the Aqueduct and Sewer Authority, the

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1/ Citations in this digest refer to Laws of Puerto Rico Annotated and the 1956 Cumulative Supplement thereto, unless otherwise noted.

Executive Director of the Water Resources Authority, the Secretary of Agriculture and Commerce, the Chairman of the Planning Board, the Secretary of Justice and the Director of the School of Tropical Medicine (or in lieu thereof, the Director of the Hygiene and Public Health Department of the School of Medicine) of the University of Puerto Rico. The Board meets on the call of the Secretary, but must meet at least once each year. The Secretary must call a meeting on the petition of four or more members. Members of the Board may delegate an official or employee of his agency to represent him on the Board by written notice to the Chairman (Title 24, sec. 594).

2. Powers and duties

a) Setting pollution standards

The Secretary is athorized to fix, by regulation, water pollution standards (Title 24, sec. 599).

b) Review and approval of plans

Before anyone can construct or install facilities for, or in any manner whatever provide for the discharge of sewage, industrial, or any other refuse into the waters, or change any existing system, or operate a new, already existing, or changed system, he must submit plans and other reports and obtain authorization therefor from the Secretary. Failure to obtain such prior authorization is unlawful (Title 24, sec. 597).

c) Enforcement

Anyone who discharges sewage, industrial wastes, or any other refuse into any waters, regardless of whether he started or continued doing so under a former Act, must cease doing so upon receipt of a final order therefor issued by the Secretary. However, no such final order can be issued until after one year from the date the pollution

created by such discharges was determined and notice thereof served on said person to correct the situation. However, the one year period will not apply where, in the judgment of the Secretary, there is an urgent menace to the public health (Title 24, sec. 596).

It is unlawful for anyone, directly or indirectly, to discharge into the waters, any organic or inorganic matter capable of polluting or of leading to the pollution of said waters so as to cause them to exceed the minimum standards of purity that the Secretary may establish (Title 24, sec. 595).

Anyone who, directly or indirectly, discharges into any waters organic matter capable of polluting or leading to the pollution of said waters, after having received a final order that he must cease to do so, or who violates any of the provisions of the Act or regulations issued thereunder, on conviction is punishable for each violation by a fine of not less than $100.00 nor more than $1000.00, or by imprisonment for a term of not less than 90 days nor more than one year, or by both fine and imprisonment. Each day of failure to comply with such order or continuation of such law violation constitutes a distinct and separate violation. Actions for injunction also lie against anyone violating the provisions of the Act where in the judgment of the Secretary the seriousness of the case warrants it (Title 24, sec. 601).

d) Administrative powers

The Secretary is authorized to make the necessary regulations to carry out the purposes of the Act. These regulations may limit the potential polluting content in any substance discharged into any waters, and may prescribe measures to prevent or abate such pollution (Title 24, sec. 598). The Secretary is further empowered to approve plans for waste

disposal facilities and issue orders (Title 24, secs. 596, 597).

3. Preservation of existing rights and remedies

The Act is not to be construed as repealing other Acts except those expressly repealed by the Act, but is to be construed as supplementary thereto, except insofar as the same may be in direct conflict (Laws of Puerto Rico, 1950, No. 142, sec. 12).

4. Severability clause

The Act contains a severability clause (Laws of Puerto Rico, 1950, No. 142, sec. 12).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to deposit into any body of water any oil, acid, poison or any other substance which kills fish crustacea or mollusca. When the discharge into the sea or any other body of water of the waste from any industrial or agricultural enterprise is necessary, a permit for such discharge must be obtained from the Secretary of Agriculture and Commerce. Any corporation volating this section is subject to a minimum fine of $500.00. A natural person committing such violation is subject to a maximum fine of $200.00 or imprisonment for a maximum term of 90 days, or both. This section does not prevent government health authorities from introducing into the water substances necessary for the protection of the public health (Title 12, sec. 61).

When an industrial establishment discharges into waters substances injurious to health or vegetation, the Governor of the Province may order a technical examination made, and if the damage is confirmed, he can order that the industrial work be suspended until the owners thereof adopt the proper remedy. If the owner does not adopt the proper remedy within a

period of 6 months, it is understood that he desires to discontinue the operation of the industry (Title 12, sec. 960).

It is a misdemeanor for anyone to put the carcass of any dead animal, or the offal or filth from any slaughterhouse, pen or butcher shop either on the banks of or, into any river, creek, pond, reservoir or stream, the waters of which is used to supply a municipality. Violation is punishable by imprisonment in jail not exceeding one year or by a fine not exceeding $1000.00, or both (Title 33, sec. 1368).